

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

DE LAGE LANDEN FINANCIAL
SERVICES, INC.,

Plaintiff,

TOSHIBA AMERICA MEDICAL
SYSTEMS, INC.,

Plaintiff/Intervenor,

v.

DESOTO DIAGNOSTIC IMAGING, LLC,
RANDON J. CARVEL, LYNN T. CARVEL,
DELTA RADIOLOGY, PC and
ZOBAR PROPERTIES, LLC,

Defendants and Counter-
Claimants.

CIVIL ACTION NO. 2:02CV2810

ORDER

AND NOW, this _____ day of _____, 2003, upon consideration of the Defendants' Response to Motion for Protective Order and to Vacate the Deposition Notice of Mr. Hiromitsu Igarashi and Notice of Withdrawal of Deposition Notice to Hiromitsu Igarashi Without Prejudice, it is hereby ORDERED that the Motion for Protective Order is DENIED as moot.

BY THE COURT:

Ronald L. Buckwalter, U.S.D.J.

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

DE LAGE LANDEN FINANCIAL SERVICES, INC.,	:	
	:	
Plaintiff,	:	CIVIL ACTION NO. 2:02CV2810
	:	
TOSHIBA AMERICA MEDICAL SYSTEMS, INC.,	:	
	:	
Plaintiff/Intervenor,	:	
	:	
v.	:	
	:	
DESOTO DIAGNOSTIC IMAGING, LLC, RANDON J. CARVEL, LYNN T. CARVEL, DELTA RADIOLOGY, PC and ZOBAR PROPERTIES, LLC,	:	
	:	
Defendants and Counter- Claimants.	:	
	:	

**DEFENDANTS' RESPONSE TO MOTION FOR PROTECTIVE ORDER
AND TO VACATE THE DEPOSITION NOTICE OF MR. HIROMITSU IGARASHI
AND NOTICE OF WITHDRAWAL OF DEPOSITION NOTICE TO HIROMITSU
IGARASHI WITHOUT PREJUDICE**

Before the recent agreement to extend discovery, and as the close of discovery was nearing¹, Defendants and Counter-Claimants, DeSoto Diagnostic Imaging, LLC, Randon J. Carvel, Lynn T. Carvel, Delta Radiology, P.C. and Zobar Properties, LLC ("DDI") took measures to complete their necessary discovery, which included noticing for deposition certain witnesses including Mr. Hiromitsu Igarashi. TAMS has sought Court intervention and is

¹ Pursuant to the September 3, 2003 Stipulation and Order signed by Judge Buckwalter, the close of discovery was set for November 30, 2003. During the November 18, 2003 deposition of Paul King, a discovery dispute prompted a telephone call to Judge Buckwalter, who in turn suspended any further discovery until after the December 1, 2003 discovery conference. As a result of that discovery conference, counsel for the parties are working toward an agreed upon scheduling order to allow the parties to complete their discovery.

presently seeking a protective order.

Defendants believe that Mr. Igarashi clearly has relevant information pertaining to central issues in this case. Defendants also sent the attached correspondence to counsel for TAMS setting forth a number, but not all, of the good faith reasons Defendants have for noticing Mr. Igarashi's deposition (see Exhibit "A"). Nonetheless, Defendants have withdrawn their Notice of Deposition of Hiromitsu Igarashi without prejudice, until after the conclusion of the 30(b)(6) deposition of TAMS and certain other planned depositions. Defendants' withdrawal of their Notice of Deposition should not be construed, in any way whatsoever, as acquiescence to the truth of any of the propositions set forth in TAMS' present motion.

In response to TAMS' present motion, Defendants categorically deny TAMS' accusations of "vexatious" and "bad faith" conduct by the Defendants.

WHEREFORE, Defendants respectfully request that this Honorable Court enter an Order in the form attached hereto, denying TAMS' Motion for Protective Order as moot.

Respectfully Submitted,

By:

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for TATE LAW FIRM
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Attorneys for Defendants DeSoto Diagnostic
Imaging, LLC, *et al*

Dated: December 17, 2003

CERTIFICATE OF SERVICE

I certify that I am this day serving a copy of the attached Defendants' Response to Motion for Protective Order and to Vacate the Deposition Notice of Mr. Hiromitsu Igarashi and Notice of Withdrawal of Deposition Notice to Hiromitsu Igarashi Without Prejudice upon the persons and in the manner indicated below:

Service by *facsimile and by first-class mail*, postage prepaid to:

Mr. Peter Boyer
MCCARTER & ENGLISH, LLP
Mellon Bank Center, Suite 700
1735 Market Street
Philadelphia, PA 19103-7501

Mr. John Chesney
DRINKER BIDDLE & REATH LLP
One Logan Square
18th & Cherry Streets
Philadelphia, PA 19103-6996

Kyle P. Tate

Date: December 17, 2003